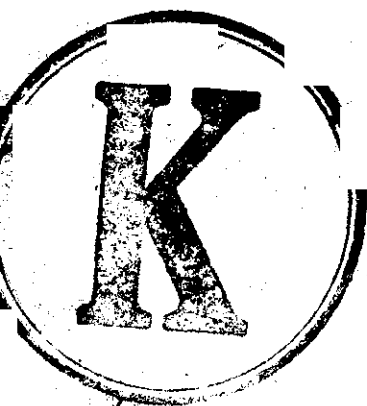




1945

File No. Greater Bombay
II/45

Legal Department

B BRANCH

Subject:—

Rules and Notifications under
the Greater Bombay Laws
and the Bombay High-Cour
(Declaration of Limits) Act, 1945

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1945

File No

Greater Bombay II/45

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Office of the R.L.A.

No Notification under section 6 of the proposed Act is necessary. However there is no objection to issuing one for the information of the public.

2. Requisite draft notifications are sent herewith. The H.D. will no doubt fill in the Schedule to the second draft notification. Before referring the case to R.L.A. H.D. should have prepared the drafts as required by instructions 61 and 65 of the Secretariat Instructions, and sent two copies for scrutiny.

3. The notifications should not be published before the Act is brought into force under section 1(2).

Sd- P.N.M.

Remembrancer of Legal Affairs.

U.R. to H.D.No.5174 dated 13th July 1945.

EKN.12/7/

BY
1947

I

Notification

Home Department,
Bombay Castle, 1945.

Greater Bombay
Laws and the
Bombay High
Court (Declaration
of Limits) Act, 1945.
*To be filled in by
H.D.

No. In pursuance of section 6 of the
Greater Bombay Laws and the Bombay High Court
(Declaration of Limits) Act, 1945 (Bom.* of 1945),
the Government of Bombay is pleased to direct
that all proceedings pending in the Court of the
Civil Judge (Junior Divisions), Andheri, at the
date of the commencement of the said Act shall be
disposed of ~~by~~ by the Civil Judge (Junior Division),
Bassein.

By order of the Governor of Bombay

Secretary to Government.

EKN.12/7/

II

Notification.
Home Department,
Bombay Castle, 1945.

Greater Bombay
Laws and the
Bombay High
Court (Declara-
tion of Limits)
Act, 1945.

*To be filled
in by H.D.

No. .- In pursuance of section 6 of the
Greater Bombay Laws and the Bombay High Court
(Declaration of limits) Act, 1945 (Bom. * of 1945),
the Government of Bombay is pleased to direct that
all proceedings pending before a court specified
in column 1 of the Schedule hereto annexed at the
date of the commencement of the said Act shall
be disposed of by the authority specified opposite
to it in column 2 of the said Schedule.

Schedule

	:
Court.	:
1.	:
	:

	:
	:
	:

By order of the Governor of
Bombay.

Secretary to Government.

EKN.12/7/

Office of the R.L.A.

Clause 6 of the Bill provides for the disposal of proceedings pending before any court in Greater Bombay, in or in respect of any of the areas comprised in Greater Bombay. It does not confer any power to issue any direction for the disposal of pending proceedings in or in respect of any of the areas which are not included in Greater Bombay. The view taken by H.D. at 'C' of their note on pages 33-34 is not correct.

2. A revised draft notification in place of the draft at pages 31-32 ante is sent herewith. Entries 6 ~~to~~ to 9 have been amplified to provide that the Honorary Magistrate who will dispose of the pending proceedings referred to in those entries shall be the one specified by the Chief Presidency Magistrate in that behalf.

Sd/ P.N.M.

Remembrancer of Legal Affairs

U.R. to H.D., No. 6183, dated 21st August 1945.

EKN.12/7/

11

NOTIFICATION.

Home Home Department.
Bombay Castle, 1945.

No. - In pursuance of section 6 of Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act 1945 (Bom. XVII of 1945), the Government of Bombay is pleased to direct that all proceedings in respect of any of the areas comprised in Greater Bombay pending in the Court of the Civil Judge (Junior Division), Andheri, at the date of the commencement of the said Act, shall be disposed of by the Civil Judge (Junior Division), Bassein.

By order of the Governor of Bombay.

Secretary to Government.

EKN.12/7/

Office of the R.L.A.

The representation from the members of the Andheri Bar refers among other things to the difficulties about 'execution of decrees passed by the Andheri Civil Court (which is to be defunct from 1-10-1945) and the decrees passed or to be passed by the Appellate Court at Thana'. The H.D. thinks that "matters such as execution of decrees etc. will be covered by the orders regarding the disposal of pending civil proceedings (which Government proposed to issue under section 6 of the Greater Bombay Act and no separate orders seem to be necessary".

2. The H.D. view is not correct. Execution of decrees where no application for execution is pending, will be governed by sections 37 and 38 of the Civil Procedure Code and not by section 6 of the Greater Bombay Act. Under section 38 a decree may be executed either by the Court which passed it or by the Court to which it is sent for execution. It is clear that hereafter there will be no Court at Andheri either to execute the decree itself or to send it for execution to another Court under section 39 of ~~the Code~~ the Code. But the expression "Court which passed a decree" has the extended meaning given to it in section 37 of the Code and includes, in relation to the execution of decrees - (a) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance, and (b) where the Court of first instance has ceased to exist or to have jurisdiction, ~~the Court which passed the decree~~ to execute it, the Court which, if the suit wherein the decree was passed was instituted at the time of

making.....

making the application for the execution of the decree, would have jurisdiction to try such suit.

3. It is thus clear that applications for execution of decrees passed by the Andheri Court will have to be made to the appropriate Court in Greater Bombay under clause (b) of section 37. Appeals from decrees passed by the Andheri Court will lie to the District Court at Thana because there is nothing in the Greater Bombay Act to take away this right of appeal. Applications for execution of decrees so passed by the District Court at Thana in its appellate ~~jurisdiction~~ jurisdiction will again have to be made to the appropriate Court in Greater Bombay in accordance with clauses (a) and (b) of section 37 read together.

4. The venue for execution application is thus determined by the Civil Procedure Code ~~and~~ and the members of the Andheri Bar may be informed that it is not necessary for the provincial Government to make an order under section 6 of the Greater Bombay Act in relation to this part of their representation.

Sd/P.N.M.

Remembrancer of Legal Affairs.

U.R. to H.D. No. 7282, dated the 3rd October 1945.

EKN.12/7/

R.I.No.30-E
1.10.1945.

G.N.H.D.No.1007/4-XII (11) dated 21st September 1945 p.67 ante abolished with effect from 1st October 1945 the court of the Civil Judge, Andheri, established a court of the Civil Judge at Bassein and fixed under section 22A of the Bombay Civil Courts Act, 1869, the local limits of the ordinary jurisdiction of the said court at Bassein to include the 37 villages from the South Salsette taluka of the Bombay Suburban District heretofore included within the local limits of the ordinary jurisdiction of the court of the Civil Judge of Andheri. Since the court at Andheri has been abolished and the 37 villages in the South Salsette taluka of the B.S.D. have been included in the jurisdiction of the Court at Bassein, all the business of the Andheri court in respect of those villages has been transferred to the court at Bassein. Under section 150 of the Code of Civil Procedure, save as otherwise provided where the business of any court is transferred shall have the same powers and shall perform the same duties as those respectively conferred and imposed by or under the Code upon the Court from which the business was so transferred. The statement, made by the District Judge, Thana, at page 69 that because of the transfer of the villages concerned from Andheri to the jurisdiction of the court at Bassein that court would have jurisdiction to try and dispose of suits from those villages and that the order from him in that behalf seems necessary is correct.

2. Owing to the abolition of the andhari on 1-10-45, there is no question now of transfer of pending proceeding in andhari court under section 24CPC to the ^lBassan^l Court. The presumption is correct. The ^{D.J.}will no doubt be moved by parties to pass orders of transfer in view of ^A on p. 59. No further orders by Government are necessary. Papers may be "seen and returned"

Sd-N.R.D.

8/10/45.

I agree H.D's promptions is correct.

RLA. Reply as at A

Office of the R.L.A.

Seen and returned.

Sd/P.N.M.

Remembrancer of Legal Affairs.

U.O.R. to H.B.No.7601,dated the 13th October 45.

EKN.12/7/